

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

CC Docket No. 96-45

In the Matter of:

Federal - State Joint Board on
Universal Service

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COMMENTS OF 360° COMMUNICATIONS COMPANY

360° Communications Company (360°), formerly known as Sprint Cellular Company, hereby respectfully submits its comments to assist in defining and addressing the issues related to universal service and the Federal universal service fund (USF), pursuant to the Notice of Proposed Rulemaking (NPRM), released March 8, 1996 (CC Docket No. 96-45)¹.

360° is the second largest stand-alone wireless communications company in the country, providing wireless voice and data services to more than 1.5 million customers in nearly 100 markets across 14 states.

In the NPRM, the Commission seeks comment on defining both the services that will be supported by federal universal service support mechanisms as well as the support mechanisms themselves, including participation, contributions, implementation and eligibility to participate in the support mechanisms.

I. GENERAL COMMENTS

360° fully supports the goals and principles of universal service as enumerated in the Telecommunications Act of 1996 (the Act), but strongly urges the Commission to recognize the necessity of allowing any telecommunications provider who contributes and who is able to provide the basic services, as determined by this proceeding, to be considered "eligible" to

¹ Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (March 8, 1996) (Notice of Proposed Rulemaking) (NPRM).

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provide the services supported by universal service support mechanisms, in accordance with Section 254 of the Act. Furthermore, 360° concurs with the Commission's current definition of the basic services that should be included among those which receive universal service support, and recommends that contributions to the USF should be a percentage of gross interstate revenues. Since the Act now requires all telecommunications carriers to make direct contributions to the Federal USF, the Commission must adopt policies that ensure against any cross-subsidization of competitive service offerings. In determining subsidies, with regard to high cost areas, there must be proportionality between the designated carrier's cost to provide the service to such areas and the subsidies granted therefor. With regard to support for low-income consumers, the subsidies should benefit the consumer as directly as possible, not the carrier providing the service. For instance, subsidies to low-income consumers could be provided in the form of vouchers to consumers, rather than subsidies to telecommunications providers. Finally, subsidies for universal service should be assessed in an industry-neutral manner, by determining what a reasonable service charge for a high cost area or low-income consumer should be, defining the designated carrier's cost to provide service to such an area or to such a consumer, respectively, and then determining the subsidy by calculating the difference between those amounts.

II. THE SERVICES OUTLINED IN SECTION 16 OF THE COMMISSION'S NPRM ARE APPROPRIATE TO INCLUDE AS THE SERVICES WHICH SHOULD RECEIVE UNIVERSAL SERVICE SUPPORT

The Commission suggests the following as services that should be included among those which receive universal service support: (1) voice grade access to the public switched network, with the ability to place and receive calls; (2) touch-tone; (3) single party service; (4) access to emergency services (911); and (5) access to operator services². According to the Act, in defining the services that should be included among those which receive universal

² Id. at ¶ 16.

service support, with respect to rural, insular and high cost areas, the Commission must choose services that are in accordance with Sections 254(b) and 254(c)(1) of the Act.

360° supports the Commission's proposed definition of the services that should be included among those which receive universal service support, with respect to rural, insular and high cost areas, and believes that such services are in accordance with the principles and criteria established in the Act.

III. ALL TELECOMMUNICATIONS PROVIDERS WHO CONTRIBUTE TO THE FEDERAL UNIVERSAL SERVICE FUND AND WHO ARE ABLE TO PROVIDE THE BASIC SERVICES REQUIRED MUST BE ELIGIBLE TO BE CONSIDERED THE "DESIGNATED" CARRIER ON A NONDISCRIMINATORY BASIS

A. THE TELECOMMUNICATIONS ACT OF 1996

The Act requires that "...[E]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service."³ Because the Act now requires that all telecommunications carriers, including Commercial Mobile Radio Service (CMRS) providers, make direct contributions to the Federal USF, it is crucial that the Commission structure its new USF policy to recognize all telecommunications carriers who are able to provide the basic services, as defined by this proceeding, to be considered "eligible" to offer the services that are supported by universal service support mechanisms.

According to the Commission, the Act "...specifies the eligibility requirements carriers must satisfy in order to receive universal service support. Under Section 214(e), support is available only to 'common carrier[s]' designated as 'eligible telecommunications carrier[s]' by the appropriate State commissions. Section 254(e) also requires that '[a]ny carrier that receives support shall use that support only for the provision, maintenance, and upgrading of

³ The Telecommunications Act of 1996, Section 254(d).

facilities and services for which the support is intended... [I]n areas served by a 'rural telephone company,' as defined by Section 3 of the 1996 Act, the State commission may choose to designate 'more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission' if that commission finds 'that the designation is in the public interest.' In other areas, the State commission must upon request designate as an 'eligible carrier' any common carrier meeting the universal service requirements specified in Section 214(e)(1)."⁴

Today, under the current universal service rules, in general, the only carriers who have been designated as "eligible" to provide the services supported by universal service support mechanisms have been local exchange providers. The Commission must expand the definition of "eligible" telecommunications carriers to include CMRS providers, and any other telecommunications service providers who are able to meet the requirements of the Act. 360° currently provides all of the services stated above (voice grade access to the public switched network, with the ability to place and receive calls, touch-tone, single party service, access to emergency services (911) and access to operator services) to all of its subscribers.

Moreover, 360° already provides service in locations where either the local telephone service provider is unable to reach the consumer or where it is simply more economical to provide wireless services than wireline services. One such area is Kold Creek Canyon, a mountain area northwest of Las Vegas, Nevada. In addition, 360° often provides wireless services to newly developed areas, as an interim service provider until the local phone company is able to provide service to that area. Thus, it is evident that CMRS providers are already providing the types of services to consumers in the areas for which the principles of universal service were established.

⁴ NPRM at ¶¶ 41 and 42.

Furthermore, in many areas, CMRS providers are able to offer greater flexibility and mobility than traditional landline services. In certain rural areas, wireless connectivity is more economical because, for example, as opposed to a landline provider who must lay cable in order to provide service to each individual home, many cellular users are able to utilize a CMRS provider's cell site. It is this type of situation that illustrates why in many cases it is more efficient and economical to utilize wireless technology to fulfill the goals of universal service.

Thus, there is no reason to exclude CMRS providers as "eligible" carriers. The Commission must establish a policy that ensures that State commissions will recognize CMRS providers as "eligible" carriers and designate CMRS providers as such, where appropriate, on a nondiscriminatory basis.

Furthermore, 360° strongly supports the congressional intent evidenced by the Act's emphasis on providing access to advanced telecommunications services for schools, health care facilities and libraries.⁵ 360° currently is a strong supporter of these principles as evidenced by its active participation in the ClassLinksm, SafeTalksm, Homework Hotline and Violence Protection programs

First of all, 360° was the first cellular provider to establish a ClassLinksm system in a high school. ClassLinksm is leading edge business technology applied to the classroom. 360° installs a mini cellular network in the school and gives handsets to each adult. The system enhances safety and security, enables teachers to communicate more effectively with parents and each other, and offers wireless access to distance learning opportunities and the internet. 360° has systems installed in three locations, Virginia Beach, Virginia, Lancaster, Pennsylvania, and Cedar Rapids, Iowa, and more systems are planned for Charleston, South Carolina, Raleigh, North Carolina, and Las Vegas, Nevada.

⁵ The Telecommunications Act of 1996, Section 254(b).

Secondly, SafeTalksm is 360°'s way of improving safety on the streets of our communities. By donating phones and curriculum to a school's driver's education program, students are taught how to use cellular phones safely, for safety. 360° has SafeTalksm up and running in 65 high schools in North Carolina, South Carolina, and Virginia.

To further promote advanced telecommunications services to schools, 360° has created a program it calls Homework Hotline. Although 360° is still in the pilot phase of the Homework Hotline, this program connects students who need help, with a "teacher on call" during the weekday evenings. Several phones are donated to the school and designated to a certain subject, like math or history. The phones are then used in shifts by teachers who agree to take the phones home with them at night. The students get help on homework, and the teachers are not chained to their offices all evening if they want to be there for students. The pilot is running in Toledo, Ohio.

360° also promotes the universal service goals of access to public safety through its participation in the Violence Prevention Program. This program gives women under threat of violence a tool for safety. Working with local police departments and YWCAs, 360° puts cellular phones in the hands of women who have domestic abuse cases pending in the courts. The YWCA helps with services and support for women who are identified by the police as being at risk. This program is operational in Greenville, South Carolina, Toledo, Ohio, and Cedar Rapids, Iowa. Participation in these programs illustrates that CMRS providers are willing and able to provide the types of services that fulfill the goals and principles of universal service and the Act, and therefore, CMRS providers must be allowed to be considered "eligible" carriers and be designated by the State commissions as such, on a nondiscriminatory basis, in the markets where they provide service.

IV. SUBSIDIES MUST BE INDUSTRY- NEUTRAL, REFLECT THE DESIGNATED CARRIER'S COSTS AND BENEFIT THE CUSTOMER RATHER THAN THE COMPANY

The Commission seeks comment on the implementation of subsidies, including determining the beneficiaries of support and the method for calculating the support. In particular, the Commission seeks comment on "...how assistance for rural, insular, and high cost areas should be calculated and distributed...."⁶ 360° recognizes the difficulty in determining these unanswered questions and urges the Commission to keep in mind the following principles in determining these amounts: subsidies should be determined and distributed on an industry-neutral basis, they should be based on the designated carrier's cost of providing service to particular high cost areas, and low-income users should benefit directly through vouchers, rather than through carrier subsidies, to ensure that the ultimate beneficiary is the consumer. In addition, geographical areas used in determining service areas for funding must be created on a nondiscriminatory and industry-neutral basis.

First of all, in order to ensure that all carriers who contribute to the fund and who can provide the basic services defined by this proceeding, are able to be considered "eligible" to provide the services supported by universal service support mechanisms, the Commission must ensure that subsidies are determined on an industry-neutral basis. For example, in determining the geographical service areas where support is needed, the Commission must create a new model, instead of using the current telephone company "study area" as the service area model. According to the Act, the current "service area" means "geographical area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, 'service area' means such company's 'study area' unless and until the Commission and the

⁶ NPRM at ¶ 24.

States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.”⁷

It is imperative that the Commission discontinue the assumptions that have been created by the old USF definitions, which create an advantage for telephone companies because, in general, they are the only carriers who have been designated as “eligible” to provide the services supported by universal service support mechanisms. To comply with the Act and to promote the congressional intent of “industry-neutral” and nondiscriminatory treatment of carriers, the Commission must create a new model by which to determine service areas for the purpose of universal service obligations and support mechanisms, and that new model must be industry-neutral and nondiscriminatory for all the telecommunications carriers who are required to contribute to the USF.

Secondly, in determining subsidies for high cost areas, the Commission must develop a policy that ensures proportionality between the designated carrier’s cost to provide the service to such areas and the subsidies granted therefor. Since the Act now requires all telecommunications carriers to make direct contributions to the USF, the Commission must adopt policies that ensure against cross-subsidization of competitive service offerings. Without this requirement, subsidies may go to benefit companies more than the consumers for whom they were created.

With regard to low-income subsidies, the benefit of the subsidy should go directly to the consumer, rather than to the telecommunications provider. 360° suggests that such a subsidy could be in the form of a voucher to the consumer, who could then use the voucher to choose which telecommunications provider they prefer to use---whether it be wireline or wireless. In this way, the consumer is the beneficiary and telecommunications providers can compete in the market for the customer’s service, which will enhance competition and keep prices low.

⁷ The Telecommunications Act of 1996, Section 102 (214)(e)(5)).

V. ALL TELECOMMUNICATIONS CARRIERS SHOULD CONTRIBUTE TO THE USF BASED ON A PERCENTAGE OF GROSS REVENUES.

360° supports the Commission's first alternative with regard to how contributions should be assessed---based on a percentage of gross interstate revenues. As the Act requires, "[E]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service."⁸ Furthermore, as the Commission noted, the Commission must also ensure that "...[a]ll providers of telecommunications services make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service."⁹ 360° supports the Commission's first proposed approach which would be to adopt the same mechanism used currently to support the Telecommunications Relay Services (TRS) program.¹⁰ Each payment would be based on a pro rata share of a telecommunications carrier's gross interstate revenues. This approach would fulfill the Commission's goals of being both easily administered and competitively neutral, as well as the Act's goals of being equitable and nondiscriminatory.

VI. CONCLUSION

In conclusion, 360° strongly supports the goals of universal service. As evidenced by its active participation in community programs such as ClassLinksm, SafeTalksm, and Homework Hotline, as well as its current provision of service to areas where the local exchange carrier is either unable to provide service or where it is economically more efficient to provide wireless rather than wireline service, 360° illustrates that it is a telecommunications provider that provides the types of services that fulfill the goals and principles of universal

⁸ Id. at Section 254(d).

⁹ NPRM at ¶ 121.

¹⁰ Id. at ¶ 122.

service and the Telecommunications Act of 1996. 360° as well as other telecommunications carriers who are capable of providing the basic services determined by this proceeding and who contribute to the USF, must be included among the carriers that are considered and designated "eligible", on a nondiscriminatory basis, to provide the services supported by universal service support mechanisms.

360° concurs with the Commission's definition of the basic services that should be supported and supports the proposal to require contributions based on a percentage of gross interstate revenues. 360° further supports the idea of vouchers for low-income consumers and subsidies based on the designated carrier's cost to provide service to high cost areas.

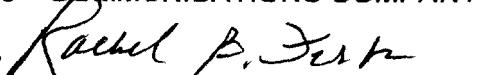
In defining service areas, 360° urges the Commission to develop a new model that will be both industry and technology-neutral, in order to ensure equity and nondiscrimination among telecommunications providers.

360° believes that these comments are in the public interest, reflect the intent of the Act and will further the goals of competition, resulting in new technology and lower prices for consumers. 360° respectfully requests the Commission to adopt policies that reflect these comments.

Respectfully submitted,

360° COMMUNICATIONS COMPANY

By

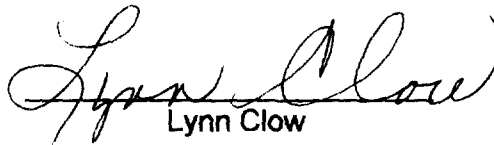


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April 12, 1996

CERTIFICATE OF SERVICE

I, Lynn Clow, do hereby certify that on this 12th day of April, 1996, I have caused a copy of the foregoing **COMMENTS OF 360° COMMUNICATIONS COMPANY** be served via first-class United States Mail, postage prepaid, upon the persons listed on the attached service list.


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